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ABSTRACT

While legislators debate, courts differ, and limited rulings emanate, Texas school district boards and superintendents are faced with the day-to-day problems of trying to decide whether or not illegal immigrant children should be educated, and if so, where and how. The conference proceedings provide a means of sharing these concerns and the exchange of views of possible remedies. Dr. Jose Cardenas' opening statement calls for a humane perspective in order to address the issues with fairness, particularly with fairness to the children involved. Leonel Castillo, Commissioner of the U.S. Immigration Service, presents the position of the U.S. Department of Justice that any child in the U.S. is entitled to an education. Summaries of group discussions reveal that impacted districts possess inadequate space to absorb growing numbers of aliens; access to education can be a function of wealth; methods of dealing with undocumented students by Texas schools are inconsistent; and alternative schools cannot meet the needs of all excluded students. Some remedies generated by discussions recommend provision of State and Federal funds for construction purposes; increasing school district unencumbered funds; and a clear Federal position of total immigration policy. Appendices include a Mexico/U.S. border city study with census data, a statement on the rights of undocumented immigrant children to a public education, texts of proposed Texas legislation, and a list of pertinent court cases. (NEC)

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A CONFERENCE ON THE EDUCATION OF UNDOCUMENTED STUDENTS



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CONFERENCE ON THE EDUCATION OF
UNDOCUMENTED STUDENTS: STATUS AND SUGGESTED REMEDIES

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THE INTERCULTURAL DEVELOPMENT RESEARCH ASSOCIATION

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SAN ANTONIO, TEXAS

MAY 11, 1979

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INTRODUCTION

The question of whether or not school districts in Texas are obligated to educate all children residing within their respective boundaries is an issue that has long been a concern of border and metropolitan districts. Recently proposed legislation that would acknowledge the State's responsibility to its children (see Senate Bill 738 and House Bill 799 in Appendix) has thrust this highly controversial issue into the state spotlight.

Legal opinions have been split, with the Court in Doe v. Plyler ruling that the Texas Education Code denies "illegal immigrant" children equal protection of the laws, while the ruling in Hernandez v Houston ISD was that "illegal immigrant" children were not entitled to a free public education.

On October 27, 1977, Commissioner M.L. Brockette ruled that all illegal immigrant children possessing a "Silva letter" should be admitted to public schools free of charge. He also authorized for such children to be counted in ADA reports, thus assuring state financial support. The "Silva letter" is a result of the Chicago court case Refugio Silva v Edward Levi in which a temporary restraining order specified that any alien from an independent country of the Western Hemisphere who had applied for an immigrant visa between December 31, 1976, and July 1, 1978 should be permitted by the Immigration and Naturalization Service to remain in the United States, unless:

- (1) the alien entered the U.S. after March 10, 1977; or

- (2) the alien is not eligible for an immigrant visa; or
- (3) the alien's continued presence in the U.S. would be contrary to the national interest or security.

Admittedly, the number of persons possessing a "Silva letter" is minor compared to the total number of undocumented immigrants residing or attending school in a particular school district (Leovigildo Zuniga, Background Paper on Undocumented Students, 1978).

So while legislators debate, courts differ, and limited rulings emanate, school district boards and superintendents are faced with the day to day problems of trying to decide whether or not these students should be educated, and if so, where and how!

Against this background, and at the request of numerous concerned superintendents, IDRA held a conference on the subject during May of 1979. The number of conferees was purposely limited to a small number in order to allow for maximum input from those in attendance. Participants included superintendents and other administrators representing sixteen Texas school districts, attorneys, legislators and legislative aides, representatives of the Federal government, and representatives from citizens' groups and alternative schools (Guadalupe Aztlan and Maranatha).

While the purpose of the conference was to provide a forum for the sharing of concerns and the exchange of views on possible remedies, the purposes of this report are to first, share the conference's product with all concerned parties and to hopefully elicit meaningful action from those who haven't yet exhibited such, and second, commend those who have.

CONFERENCE PROCEEDINGS

Opening Statement: Dr. Jose A. Cardenas

IDRA has taken the initiative to bring together this group in response to requests from several school district superintendents for assistance in dealing with problems related to alien children.

Today, we would like to address two ramifications of this problem; first, the fiscal impact of documented alien children on school districts with limited financial resources. The absence of a tax base tends to create a heavy and perhaps unfair burden upon the local school district which, in Texas, must carry a portion of the maintenance and operation burden, and the entire load of capital outlay.

A second ramification is the case of undocumented alien children which, under current state legislation, constitutes ineligible average daily attendance, and is, therefore, not subject to state school financial assistance.

IDRA's concern with today's topic stems from a six-year history of intensive and extensive involvement in the financing of Texas schools. It also stems from the implications on the education of children. The education, or lack of education, of undocumented alien children must be viewed from a humane perspective. The inability or unwillingness to provide for their education is a violation of the human rights of the child, and a travesty on justice, since it leads to children being made to pay for the sins of their parents.

A much less realistic and much more practical consideration is the subsequent impact on American children, educational

institutions, and the general society. If, as indicated by several research studies, a substantial portion of undocumented alien children not eligible for education benefits today will subsequently become United States citizens and legal residents of Texas, we must anticipate the formidable educational problem to be faced when a child, not previously enrolled in school, suddenly becomes eligible for school involvement at the age of twelve.

The purpose of this conference is to bring together a diverse group of interested parties in order to define the problems, design solutions and formulate policy addressed to the needs of alien children in the context of practical constraints experienced by educational institutions.

The participants invited to this conference include a variety of interested individuals and concerned institutions. They include representatives of school districts, government agencies, law-makers, law enforcers, advocacy groups, and litigation specialists. Each participant has a specific interest in the solution to the problem.

Outcomes anticipated as a result of today's activity are the beginning of the formulation of alternative responses in the form of federal assistance; state and local policy; inter-agency and perhaps international cooperation; and, hopefully, innovative approaches not yet conceived in our minds.

Though some of the individuals and institutions present here today may have met previously in adversary roles, I trust that we may be able to adopt, at least briefly, a different

role - one of understanding, appreciation and cooperation - in order to address the issues with fairness to each other, but primarily with fairness to the children involved.

NOTE

Dr. Cardenas is the Executive Director of the Intercultural Development Research Association.

Keynote Address: Commissioner Leonel Castillo

A few points need to be made on the subject of undocumented children. First, is that the problem will probably get worse. Second, there is developing a very clear position, on the part of the Department of Justice, as to what we think our position should be. And finally, that there are some next steps that we should take.

First, the bad news on how the problem will probably grow. The fastest growth areas in Mexico, outside of the big urban centers, are the border communities. A pressing priority in Mexico is the development of the border. The personalities of border communities such as Reynosa, Matamoros, and Nuevo Laredo are changing. They are no longer sleepy little border towns. They are all now much larger than the corresponding towns on the U.S. side. We're looking at populations of 300,000 to 350,000, and Tijuana adding 1,000 people a week! We're looking at Juarez being much larger than El Paso. We're looking at these populations booming and trying to provide water, food and clothing for their people. And that means that as they migrate northward, they're likely to cross the border into the United States.

Further, we're beginning to see marked growth in U.S. communities all along the U.S.-Mexican border. We had a report done on growth along the border, and it indicates doubling populations in 15 years, at most. This rate could be accelerated significantly through factors such as gas pipeline completions.

Now what does all this have to do with education? It means that if it's true that people come across as a result of push-pull, that is, pushed by poverty and pulled by opportunity, then we're putting a magnet right in the middle that adds to the power of push-pull. The magnet is twin plants, better school systems, better opportunities, and so on. So I'm not surprised that Brownsville needs a new schoolroom every 10 days.

We now have 800,000 reported Mexican nationals who reside permanently in the U.S. There are also 4 million undocumented persons in this country, but only 60% are Mexican. The concentration of these is along the border, and a distinction must be made between problems along the border, and immigration problems in the interior. The immigrants filtering into the interior, places such as Dallas, Houston and San Antonio, are of the young adult variety. The Houston-North Report revealed that only 2% of them had children in school (Editor's note: the Houston ISD refuses admission to immigrants incapable of providing the required documentation), yet 77% pay social security, and they all pay taxes of one form or another. So there is evidence to suggest that their presence is an actual economic benefit to the community. Studies in Orange County, California prove this to be true.

However, there is a problem in monitoring their activity, the U.S. government is presently on an anti-inflation program, and that means that dollars for federal agencies are limited. In practical terms, that means that there will be no increases in the size of the Border Patrol. The Immigration Service has

12 Investigators for the Houston area and all of East Texas. INS has about 350 Border Patrol officers spread from Brownsville, Texas, to San Diego, California, on any given work shift.

One more point on population. About one-half of the Mexican population is 15 years of age or younger; that's about 60 million people. So we can look forward to a change.

The second major point is that we have a clear position within the Department of Justice: Any child in the U.S. is entitled to an education. We expect battles from State school systems because of funding. However, we are moving toward supporting key legislation, and our policy is to refrain from impeding any school processes. That is, we do not raid schools; it is contrary to our policy. Unfortunately, Texas, unlike other states, has not seen fit to educate all of its children. Not only is it bad educational policy, it is bad social policy. And we will continue to support plaintiffs such as those in Doe versus Plyler.

Now what are the next steps? First, we need to make the public better informed. The public is confused on this issue, and attitudes change depending on which area of the State you're in. We need to explain that the undocumented typically are not on welfare. In one study of 55,000 welfare cases, only 19 were undocumented, and of these 19, eleven were Canadian; the undocumented come to work, and they do not want to be identified. There are other attitudes in Texas that cause harm. We read newspaper accounts of the "alien hordes,"

or the "Brown Invasion." These are dangerous terms because uninformed readers sometimes generalize to include all people of Mexican descent as undocumented aliens. For example, one U.S. Senator came to San Antonio and thought that everyone in San Antonio was undocumented because all he saw was brown faces!

In conclusion, we need to make the point to the rest of the country, and especially to the rest of this State, that the U.S.-Mexican border is the world's busiest crossing point, and that contrary to popular perceptions, border community problems are radically different from those in the interior.

NOTE

Mr. Castillo is the Commissioner of the U.S. Immigration and Naturalization Service, Department of Justice.

Legal Overview: Mr. Jose A. Medina

We have found instances of children who are citizens being excluded from school in Houston. These children were born in Mexico to U.S. citizens, and the law clearly states that they are citizens. Also, we have found children who have been abandoned, and since they don't have birth certificates, and their natural parents cannot be determined, they are not allowed in school. They are refused admission by people who not only have no concept of what's humanly right, but they don't know what's right according to the laws and constitution of this country.

I'd like to give a background on immigration and the laws that have evolved from that, because they have a bearing on the legal history behind section 21.031 of the Texas Education Code. We can begin by examining the terminology. Commissioner Castillo, and the entire INS, has done a good job of getting people away from the term "illegal alien." Use of terms like this have the effect of creating disparaging attitudes and building emotions against the person and turning attention from the issue. The only person who is qualified to make a final determination of an alien's status is an immigration judge. And until a final order for deportation is entered, and no further judicial or administrative appeals are possible, that person's status is undetermined. Through terminology, we have also created the impression of a "shadow people," people who aren't really there. And by calling the person, and not the act, illegal, one feels justified in denying them their rights. An analogy may be found in civil law, because immigration law is a civil, and

not criminal, matter. A person who gets in trouble with a creditor faces civil liability, but no one would think of calling him illegal. So why call an immigrant illegal for a similar civil infraction?

This leads us to section 21.031 of the Texas Education Code, and the 1975 amendments, which said that in order for a child to partake of the Available School Fund, that child had to be a legally admitted alien or a citizen. That's very key to the issue, because part of the attack on the Code is that the term "legally admitted alien" is so nebulous and hazy that it is virtually impossible to make a sound legal determination as to who would be covered by that. Section 21.031 is also interesting in that it is a good example of a law that was passed to justify a policy that already existed. The Houston ISD had for years excluded undocumented students from its schools. And I say "its schools" with a bit of facetiousness, because those schools belong to, and are supported by, the public. And the undocumented, as part of the taxpaying public, certainly contribute to the support of schools. And prior to 1975, some districts had a policy of turning over the names of students of questionable status to the INS. One of the first actions that challenged the 1975 amendments was a case out of Houston called Hernandez v The Houston ISD. The case went through TEA, which ruled that they had no authority to rule on a constitutional issue.

So nearly two years trying to seek administrative relief were lost, but the children were still out of school. Taking the case into the State courts was a gross error. There was

no way, politically, that the State court would support a challenge to this statute. The plaintiffs sought to strike section 21.031 as being violative of the equal protection provisions of the fourteenth amendment, and as being preempted by Federal law. The appellate court found that since the rational basis test was being used, that there was a rational basis for this law, and that it was not preempted. The State Supreme Court refused to hear the case.

Another challenge arose out of Tyler, Texas, in Judge Wayne Justice's court. It also alleged violation of the fourteenth amendment, preemption, violation of due process provisions, and questioned the validity of the statute in light of the Protocol of Buenos Aires of 1968. This case, Doe v Plyler, had a little bit better luck. Probably because it was in Federal court where the judge was more open in applying legal precedent. He decided that the statute should be struck because it was impacting directly on immigration. It was impacting in a way that did not complement either one of the purposes of protection of the domestic labor force, or unification of families that the Immigration and Naturalization Act was purportedly passed for. The judge also said that the statute really had no rational basis. There is no relation between what the State was trying to do, deny illegal migration, and the denial of an education. One problem with this decision, however, is that it is limited to Tyler. So there is a need to develop those arguments further, and to bring to light other considerations. Briefly, they include the fact that the Texas Education Code helps circumvent and subvert the immigration process.

Studies such as that by Dr. Jorge Bustamante from the Colegio de Mexico have shown that undocumented families do remain and ultimately become legal resident aliens or citizens, and the State is going to have to face the day when vast numbers of this underclass of people, who have been denied educations, who have been forced to remain illiterate, attain legal status and will thus become the concern of the State. Another unfortunate thing is that many of these people will never be able to attain citizenship because some degree of literacy is a requisite to petitioning for citizenship.

Very briefly, I would like to deal with a group of people called the "Silva class." A Federal judge in the Silva case in Chicago ruled that because the State Department had wrongfully applied the numbers of Cuban refugees against the Western hemisphere's quota from 1968-1976, all persons who had a petition that had been accepted for filing prior to January 1, 1977, and if the person was here prior to March 11, 1977, that person could not be deported. The 144,980 visas that had been recaptured, had to be applied to those who had priority numbers between July 1, 1968, and December 31, 1976. These people are here in a legal status. Consequently, TEA did find that anyone affected by this ruling was to be allowed in school tuition-free. There are other groups that are here under color of law, and the INS, for whatever reasons has not moved to have them deported. They are here with full awareness of the government, and they should be allowed, even with our present laws, to go to school.

Very briefly, to conclude, as educators we should be aware that this is the International Year of the Child, and there are international treaties that the Texas Education Code is violative of. But the U.S. has taken the position that covenants do not interfere with a State's right to regulate its education system. It's up to people who really understand the value of an education to begin to assert and to force an understanding of what a deprivation of that education will mean not only to that child, but to society.

NOTE

Mr. Medina is Director of the Centro Para Imigrantes, Houston, Texas.

SUMMARY OF GROUP DISCUSSIONS

After formal addresses, the conferees split into discussion groups to provide first-hand input on the impacts occasioned by the presence of undocumented students in their districts, and to share suggestions on forms of relief that they feel is so critically necessary. The following is a summary of salient impacts and desired remedies as expressed by conference participants.

Impacts

- Impacted districts possess inadequate classroom space to absorb growing numbers of newly arrived aliens.

The Brownsville ISD has a membership of 24,000 students. It is adding new students at a rate that requires one new classroom every ten days. Without sufficient funds for building purposes, the district now finds that over half of its buildings are of a temporary or portable variety. Most of this growth is due to the influx of emigrants from Mexico. Brownsville's Mexican neighbor, the city of Matamoros,, is presently running its schools on a three-shift basis, and 20,000 of its school-age children are still unprovided for. These children represent potential additions to the Brownsville School District.

- In some districts, access to education is a function of wealth.

Six to nine hundred children are turned away from El Paso classrooms every year due to their inability to pay the district's tuition of \$125 per month. This tuition is required

of all children who do not hold legal resident or citizen status, but who do reside in the district. Presently, there are 200 students paying this tuition.

- There is inconsistency, and a differing of opinion, in the methods used to deal with undocumented students who are admitted into Texas schools.

In McAllen, twelve new classrooms have been established solely for newly-arrived children in Mexico. Next year, they expect to establish 12-14 more new classrooms solely for these children. These children remain in these self-contained classrooms for specialized instructional purposes.

The El Paso and Austin school districts use the English as a Second Language (ESL) approach. In these districts, students take time out from their regular classroom attendance to attend ESL classes. The thought here is that English language acquisition should coincide with regular classroom attendance.

In Brownsville, ostensibly due to the large number of bilingual instructional personnel, immigrant students are placed in regular classroom settings, while many districts place these students in their bilingual programs.

The recommendation was made that part of the follow-up to this conference should be an attempt to standardize curricular methods for dealing with newly-arrived immigrant students.

- Faculty morale has suffered, and attitudes have taken a negative nature, in impacted districts.

Student-teacher ratios have skyrocketed to 70 to 1 in some classrooms in heavily impacted school districts.

Teachers have experienced situations where they have to

purchase supplies out of their personal finances or operate with no supplies for some children. Students must share books, desks, and other materials in many classrooms. With conditions such as these, it is apparent why faculty morale is suffering. The negative attitudes come when nothing is done about it (reference here is not necessarily directed to district administration, but rather toward those in positions to provide relief for these students).

- Negative attitudes toward undocumented students have surfaced in impacted communities.

Aside from parents who feel that their children's education is suffering as a result of the presence of undocumented students, community businesses and residents have developed negative attitudes toward the undocumented. Apparently, these attitudes are predicated on the belief that the undocumented are a drain on the community's resources, and that since they took unconventional measures to to gain access to this country, they shouldn't be here in the first place.

- A significant percentage of undocumented students are also physically handicapped.

These students pose additional problems since they require particular attention. While one solution would be to put them in special education programs along with other handicapped children, they would present a drain on program resources that are already grossly underfunded.

- Border school districts are faced with educating students who are U.S. citizens living in Mexico.

The Mexican government has a policy of not educating U. S. citizens, so these students cross the border to get an education. They pose a problem since their parents do not reside in the receiving school districts, and in many instances, they themselves are not U. S. Citizens.

- Alternative schools cannot possibly meet the needs of all excluded students.

While alternative schools such as Guadalupe Aztlan and Maranatha are doing all they can to educate students turned away from the State's public schools, they are reaching a very small percentage of those in need.

Of the 7-12,000 undocumented children in Houston, only 300 are enrolled in alternative schools. The rest are not receiving a formal education.

Remedies

- Provision of State and Federal funds for construction purposes.

There was grave concern over the lack of State interest for funding school construction, especially in rapid growth districts. And while S. B. 849 by Senator Lloyd Bentsen does provide for some relief, the Federal government has not given indication of providing meaningful relief. Emergency Federal funds are needed, and State funds should be provided on an on-going basis.

- Establishment of a State-supported construction loan fund.

Low-interest loans for building purposes could be made available in lieu of, or as a supplement to, outright grants.

One source of funding could come from the growing Available School Fund.

- Increasing the amounts of unencumbered funds received by school districts.

School districts need more money that is not earmarked for set purposes. This would allow them the flexibility to use the funds where they're needed most. While increases in categorical funding are well-intentioned, these categories do not always represent the greatest needs.

- The Texas system of school finance should include formulas that would provide extra money for districts experiencing significant growth rates.
- State equalization formulas could include a factor for rapid growth.
- Section 21.031 of the Texas Education Code needs to be amended in order to commit the State to a quality education for all of its children.
- Extensive education efforts are needed to make the general public aware of the situation and its ramifications.
- A clear position on total immigration policy is needed from the Federal government.
- A coalition of concerned parties is needed to pursue matters further.

This suggestion generated a lengthy discussion on the matter. While the conferees agreed that a coalition is desirable, the specifics of organization were not addressed comprehensively. However, Dr. Cardenas did promise IDRA's continued support, and he committed the organization's resources to any effort toward coalescence.

SUMMARY OF PANEL DISCUSSIONS

Federal

- Senator Lloyd Bentsen's SB 849, as presented by Mr. Luis Escareno, would provide 45 million dollars for capital improvements to border school districts. However, the funds would be allocated based on the number of "legal immigrant" children born in Mexico. For a district to be eligible, these children must number more than twenty, and they must comprise at least 7 percent of the total number of students between 5 and 17 years old. (Note: at this writing, S.B. 849 is pending action in the U.S. Senate Environment and Public Works Committee).
- Until the greater question of total immigration policy is addressed adequately, Federal and State policymakers will continue to move sluggishly in the area of education for undocumented students.

State

- A form of relief could be to channel migrant worker funds to school districts through the State Department of Migrant Education. This possibility, as presented by Mr. Ambrosio Melendrez of the Texas Education Agency, could make state funds available not only for education, but also for medical, dental, and clothing needs. Two relevant provisions were published in the Federal Register on November 13, 1978:
 - (1) The definition of students who are migrant has been expanded, along with flexible guidelines to allow for greater eligibility.

- (2) Regulations were issued strengthening the requirement that an eligible child will not be prevented from participating in Title I programs due to limited English competency, and that the U.S. Commissioner may not require proof of migratory or citizenship status before the child is deemed eligible for services.
- State Senator Carlos Truan detailed his bilingual education bill, S.B. 195, which would extend bilingual education to the fifth grade, and would provide for entry and exit criteria.

Legal

- The legal panel, comprised of Mr. Joaquin Avila of MALDEF and Mr. Jose A. Medina of the Centro Para Imigrantes in Houston, observed that a modification of the Texas Education Code would render cases such as Doe and Hernandez moot. Such a modification was proposed by State Senator Oscar Mauzy's S.B. 738. The favorable ruling by Judge Justice in the Doe v. Plyler case is presently under appeal. Mr. Avila related that the court is waiting for the Department of Justice to file its amicus curiae brief, which will explain the course of action that it will be pursuing.
- Mr. Medina revealed that Sec. 21.031 of the Texas Education Code is in clear violation of at least four international treaties. The U.N. Charter, the Universal Declaration of Human Rights, The International Covenant on Economic, Social and Cultural Rights, and the Protocol of Buenos Aires as passed by the Organization of American states. It guarantees

at least a minimum right to elementary education to all children.

- Other constitutional challenges to the Texas Education Code, under due process and equal protection arguments, are available from the Centro Para Imigrantes in Houston.
- Finally, Mr. Medina made the point that the issues of inadequate funding and swelling enrollments should be kept separate. The solution to inadequate funding levels must come from State and Federal aid, not from unconscionably excluding undocumented students from the educational system.

Concluding Remarks: Mr. James Vásquez

After listening to all of the positions, all of the explanations, and all of the legal ramifications involved with the issues that we've been discussing today, it seems very clear that a dichotomy exists between our intention to want to educate all of the children within our districts, and the economic limitations experienced by districts. But I think that we should not lose sight of the fact that we have to transcend that one position. We're talking here to school districts and superintendents who want to educate all children, but who may not have the economic wealth to do that. But then there are those who have the economic wealth, but who choose not to educate all children. Maybe from this conference, a message will be sent to them. There are some very important school districts that are obvious by their absence. And I wonder, where is the good conscience of the educator, who says, as part of his creed, that his role, his goal, is to educate all children. I know I am more sympathetic to the problems of Brownsville, Rio Grande, and Pharr-San Juan-Alamo, and I also walk away with a renewed dedication to the fact that regardless of proposition 13 mania or inflation or questions of energy, that we never lose sight of the fact that the children of this state, and it sounds cliché, that the children of this state are the hope of the future. And until such times that we're willing to put things into the educational and social perspective that they belong in, we will not resolve the issues. And until all of us are willing to make the commitments and the sacrifices, I see no hope for

anybody. Until we, as educators, are willing to face the risks, nobody else will do it. I hope that this conference is a beginning, not an end, and I hope that we will be able to keep this going and help children in every region of this State to get an education. Thank you.

NOTE

Mr. Vasquez is superintendent of the Edgewood Independent School District, San Antonio, Texas.

EPILOGUE

Judging from the initial response to the conference, all concerned would echo Superintendent James Vasquez's hope that this gathering will have served as a beginning. Not only for the much discussed coalition, but also for the initiation of meaningful interaction between all states experiencing similar problems, perhaps in the form of a regional conference on the issue, and for a general change in State attitude from exclusion to allowance.

IDRA is committed to doing its part in addressing the educational needs of undocumented children. One such need is that of public awareness and general understanding. With this in mind, IDRA will continue to disseminate information on this issue and report on developments that have some bearing on the matter.

BORDER CITY STUDYMexico

1. High growth rates are prevalent in all of the Mexican border cities analyzed in the study with the following exceptions:
 - . Camargo - no growth
 - . Cd. Mier - decline in population
 - . Cd. Juarez and Zaragoza - low growth, even though twin plants have been located here
2. High growth rates in Mexican border cities primarily have been associated with the following three phenomena:
 - . Internal migration to border area - Matamoros, Nuevo Progreso, Miguel Aleman, Nuevo Guerrero
 - . Construction projects - Porvenir, Ojinaga, Sonita
 - . New Industry, especially an increase in agri-business and twin plants - Rio Bravo, Reynosa, Piedras Negras, Cd. Acuna, Nuevo Laredo, Palomas, Nogales, San Luis, Baja California

United States

1. Border cities with high growth rates which are not expected to continue:
 - . San Benito - resettlement of retirees
 - . Hidalgo - construction of a high school
 - . Falcon Hts. - Resettlement of retirees
 - . Columbus - annexation of farm area into city limits
 - . Ft. Hancock - construction of irrigation system; population is expected to decline at the completion of the project.

2. Border cities with high growth rates which probably will continue:

- . Progreso - migration from Nuevo Progreso
- . McAllen - new industry and construction
- . Los Ebanos - growth of neighboring Diaz Ordaz; as a result there was an expansion of retail businesses and agri-business
- . Roma - heavy migration from Mexico
- . Eagle Pass
- . Laredo - increases in industry, especially gas exploration and trucking
- . Presidio - increase in narcotics traffic in area

3. Both the Census and Chambers of Commerce data demonstrate that the largest growth rates have been along the Brownsville - Roma corridor.

4. Regarding the volume of population change, the area of highest concentration is along the California border.

Implications

- . This is a very imprecise method of analyzing population change. A very short time period has been utilized for the study, two years. There are generally large yearly fluctuations in births alone which can impact on population growth for that year. In the aggregate form, the results merely demonstrate large growth areas, but they do not reflect the components of population change.
- . Projections cannot be made concerning population growth on the basis of this data. Assumptions and possible future trends can be delineated on the basis of the current data and past trends. However, these are not very reliable.
- . A study which could evolve from this border study would be an analysis of population change in various border cities and towns. It would entail breaking down population change into its component parts: births, deaths and migration. Each of these demographic variables could be quantified and the major factor of population change identified. The analysis would demonstrate the significant cause of population change for a city.

DATA ON BORDER CITIES

Location	Population 1976	Population 1978	Percent Change 1976-1978	Average Annual Percent Change
Brownsville	78,500	80,500	2.5	1.3
Harlingen	44,500	46,500	4.5	2.3
San Benito	18,300	18,900	3.3	1.7
*Matamoros ¹	213,000	243,000	14.1	7.1
Progreso	966	1,197	23.9	12.0
Donna	7,281	7,310	.4	.2
Mercedes	10,000	10,177	1.8	.9
Weslaco	19,262	20,007	3.9	2.0
*Nuevo Progreso	10,525	12,000	14.0	7.0
*Rio Bravo	40,188	52,569	30.8	15.4
Hidalgo	1,882	2,140	13.7	6.9
McAllen	52,500	58,000	10.5	5.3
*Reynosa	191,000	216,000	13.1	6.6
Los Ebanos	11,000	13,000	18.2	9.1
*Diaz Ordaz	12,000	15,000	25.0	12.5
Rio Grande City	17,709	19,000	7.3	3.7
*Camargo	4,000	4,000	0	-
Roma	3,100	6,000	93.5	46.8
*Miguel Aleman	12,000	15,000	25.0	12.5
Falcon Hts.	800	1,000	25.0	12.5
*Nuevo Guerrero	4,500	6,000	33.3	16.7
*Cd. Mier	10,000	9,000	-10.0	-5.0
Eagle Pass	19,375	24,000	23.9	12.0
*Piedras Negras	85,000	105,000	23.5	11.8
Del Rio	36,600	37,684	3.0	1.5
*Cd. Acuna	57,500	65,500	13.9	7.0
Laredo	82,000	98,876	20.6	10.3
*Nuevo Laredo	N.A.	230,000	-	-

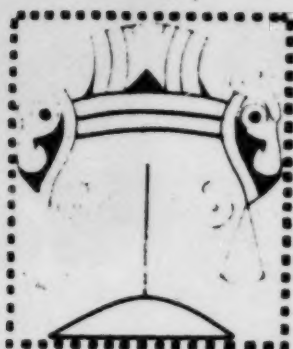
Location	Population 1976	Population 1978	Percent Change 1976-1978	Average Annual Percent Change
El Paso	410,037	431,826	5.3	2.7
*Cd. Juarez and Zaragoza	498,058	518,726	4.1	2.1
Fabens	5,992	6,332	5.7	3.9
*Caseta	4,000	4,000	0	-
Ft. Hancock	650	725	11.5	5.8
*El Porvenir	3,600	6,000	66.7	33.4
Presidio	1,150	1,300	13.0	6.5
*Ojinaga	35,000	55,600	58.9	29.5
Columbus	396	547	38.1	19.1
*Palomas	3,500	4,400	25.7	12.9
Nogales	8,946	12,000	34.1	4.3
*Nogales	65,000	105,000	61.5	7.7
Yuma	29,007	35,204	21.4	2.7
*San Luis	63,100	135,000	113.9	14.2
Lukeville	-	120	-	-
*Sonoita	-	10,000	-	-

Location	Population 1970	Population 1978	Percent Change 1970-1978	Average Annual Percent Change
San Diego County	1,357,854	1,694,800	24.8	3.1
Imperial County	74,492	87,289	17.2	2.2
*Baja California				
Ensenada Zone	77,687	190,118	114.7	18.1
Mexicali Zone	263,498	583,585	121.5	15.2
Tecate Zone	14,738	22,000	49.3	6.2
Tijuana Zone	377,308	636,114	68.6	8.6

*Indicates Mexican locations.

CENSUS DATA ON BORDER CITIES

State	Location	Population 1970	Population 1973	Population 1975	Percent Change 1970-1975	Average Annual Percent Change
<u>Texas</u>	Brownsville	54,892	64,149	72,157	13.1	6.3
	Harlingen	33,503	37,096	40,423	20.7	4.1
	Mercedes	9,355	10,067	10,360	10.7	2.1
	Weslaco	16,165	18,374	20,007	23.8	4.8
	Hidalgo	1,289	1,524	1,592	23.5	4.7
	McAllen	37,636	44,317	48,563	29.0	5.8
	Laredo	69,024	76,534	76,998	11.6	2.3
	Eagle Pass	15,364	17,453	19,098	24.3	4.9
	Del Rio	21,330	23,405	25,344	18.8	3.8
	El Paso	322,261	357,607	385,691	19.7	3.9
<u>New Mexico</u>	Columbus	241	267	239	-0.8	-1.6
<u>Arizona</u>	Nogales	8,946	10,339	11,080	23.9	4.8
	Yuma	29,007	29,974	30,018	3.5	0.7
<u>California</u>	Calexico	10,625	12,477	13,227	24.5	4.9
	El Centro	19,272	21,436	21,343	10.7	2.1
	San Diego County	1,357,854	1,469,500	-	8.2	2.7
	Imperial County	74,492	78,500	-	5.4	1.8



**CENTRO PARA INMIGRANTES DE HOUSTON, INC.
THE HOUSTON CENTER FOR IMMIGRANTS, INC.**

2314 CONCHAN
HOUSTON, TEXAS 77009
(713) 228-0091

**THE RIGHT OF UNDOCUMENTED IMMIGRANT
CHILDREN TO A PUBLIC EDUCATION**

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1. Who Are The Undocumented Immigrants?

These are persons who find it necessary to uproot themselves from their homeland in order to seek work in the United States without the permission of the Immigration Service. They are economic refugees whose homeland can not provide them the basic opportunity to work for a living.

These are persons whose immigration status is unsettled.

Immigration law is a very complex field. There are many categories of aliens including permanent residents, green card commuters, parolees, refugees, those on deferred action, and those on continued and extended voluntary departure. There are also many categories of aliens who are visitors. It is not difficult for an alien to gain a particular immigrant status, lose it, and regain it again - all within a relatively short time.

International, national and state/local studies indicate that undocumented immigrants contribute greatly to local, state, and national economies. For example, the 1976 Linton Study of the U.S. Labor Department indicated that of those apprehended undocumented immigrants surveyed, 77% paid social security taxes and 73% paid Federal income taxes while only .05% received welfare assistance, 1.3% received food stamps and 3.9% collected one or more weeks of unemployment compensation. A study released in 1977 by the Arizona Department of Economic Security reported that about 80% of those apprehended undocumented immigrants surveyed paid social security taxes, 75% paid Federal income taxes and 44% made hospitalization payments while only 4% collected unemployment insurance and 27% had never used hospitals or clinics. A March 1978 study released by the Orange County (California) Board of Supervisors also supports these recent findings. Their study indicated that 88% of undocumented immigrants in the county paid social security taxes, 70% paid Federal income taxes while only 2.8% utilized welfare services, 1.6% used food stamps and 28% used a public or private hospital or clinic. The Orange County study, like the others, suggests that undocumented immigrants are very likely to pay more in taxes than they use in tax-supported public social services. They are not, according to the evidence, a burden to other taxpayers.

2. Who Are The Undocumented Immigrant Children?

It is not uncommon to find undocumented immigrant children whose parents are U.S. citizens and/or permanent resident immigrants. It is not uncommon to find undocumented immigrant children whose brothers and sisters are U.S. citizens and/or permanent resident immigrants. Research studies by Dr. Jorge Bustamante indicate that although the great majority of undocumented immigrants are single male and females who visit the United States only for work purposes, there is a small percentage of undocumented immigrants who come as families. Many of these families often have petitions pending before the Immigration and Naturalization Service. However, because there is such a backlog in the service function of the Immigration Service, these petitions remain unresolved for a long time. Researchers, such as Gilbert Cardenas, indicate that many of today's permanent resident immigrants were at one time undocumented immigrants. It is in this type of family setting that the undocumented immigrant child exists. That is, the undocumented immigrant child is here to stay permanently because of his/her family and there is a good likelihood that at some time in the future that child will obtain a documented immigrant status.

3. Why Are Undocumented Immigrant Children
Excluded From Free Public Education In
Texas Schools?

Section 21.031 of the Texas Education Code, along with local school district policies, exclude undocumented immigrant children from free public education. It is claimed that the law is needed because there are too many "illegal aliens." Yet, research indicates that children comprise a very small percentage of undocumented immigrants. It is claimed that Texas free public education should only be for Texas residents. Yet, the fact that these children do not have certain immigration papers does not make them outlaws for all purposes. These children are as much a part of the community they live in as any other living child of school age. It is claimed that these children have special needs that will burden the school district. There is nothing unique about the need for bilingual education. Many citizens and permanent residents have this need. The Houston public schools have excluded undocumented immigrant children from public schools since 1974. Has the need for bilingual education been any less? Is it the role of the school district to educate those without a need? It is claimed that these children economically burden the school districts. Yet, research indicates that undocumented immigrants do contribute to the national and local tax base. It is claimed that if these children really want to go to school, their parents can pay tuition. Yet, research indicates that these persons hold low-paying, highly unstable jobs which cannot provide the hundreds of dollars per month that must be paid for each child.

4. Why Should Undocumented Immigrant
Children Be Permitted To Attend
Tuition-Free Public Schools

There is every indication that these children are here to remain permanently. The Immigration Service does not have a policy of singling out children for deportation. In most instances, it is only a question of time before the child, through its parents or other relatives, becomes documented. Thus upon entering public school after years of exclusion, the now documented immigrant child will face unsurmountable obstacles in education. Much of this damage is irreparable. Without a free public school to attend, many children are left to roam the streets uneducated. It is estimated that already one-fifth of all Texas children live in poverty. There can be no quicker way to breed a permanent underclass of persons than by exclusion from free public schools. Professor Kenneth Keniston points out that it may be unrealistic to assume everyone can pull himself up by his bootstraps in a complex technological, industrialized, capitalistic economy. He points out that the distribution of wealth in the United States has not changed substantially in 150 years. To force children "our greatest national resource" - to bear the brunt of poverty, he says in the Carnegie report All Our Children, is exceedingly unwise: "In some ways we might even say that such children are systematically trained to fail. The covert lessons their environment teaches them about themselves are astonishingly consistent. Such children are smart enough to sense from an early age that the world of mainstream America defines them and their parents as no-good, inadequate, dirty, incompetent and stupid. This sense of self, constantly reinforced, in fact is an accurate perception of the messages our society gives these children.... The psychological pain - and the ethical shame - of American poverty are made greater by the fact that this country possesses the wealth and the energy to raise all children to a minimally decent standard of living."

5. Do Public Schools In Other
Parts Of The Country Admit
Undocumented Immigrant Children
To Free Public Schools

Yes. Indeed, the New York City Board of Education on December 13, 1978 adopted the following resolution:

RESOLVED, That it is the policy of the Board of Education to admit to its public schools all children without regard to their immigration status or the immigration status of their parents, provided that they have met all other appropriate requirements, and be it further

RESOLVED, That the Chancellor is directed to remove from all school forms any reference to a child's or parent's immigration status.

The official explanation for this resolution was stated as follows:

It has been brought to our attention that children who are aliens or whose parents are aliens have sometimes been excluded from attending a New York City public school on the basis of not being able to provide evidence of having been admitted to immigrant status by the United States Office of Immigration and Naturalization.

The monitoring of the immigration status of a child or parent is not a proper function of the New York City Board of Education.

Texas is the only state with a state statute which limits free public education to children based on immigration law.

6. What Is Being Done To Support
The Basic Right Of A Public
Education To Undocumented
Immigrant Children?

There are many attempts to change the law. There are currently six (6) federal law suits against the state and different school districts. There are suits against the school districts in Houston, Dallas, Pasadena, Baytown, and Tyler. The federal court in Tyler on September 14, 1978, ruled that the law and practice of excluding undocumented immigrant children from free public schools is unconstitutional. That court permanently enjoined the Tyler School District and Texas Education Agency from enforcing that law in Tyler. The other pending suits are seeking a similar ruling. There is even an attempt by the state legislature to change the law. Senator Mauzy of Dallas introduced a few weeks ago Senate Bill 738 which would repeal the state law which allows for undocumented immigrant children to be excluded from free public education. The Senate Committee on public education, at the time of this writing, had passed the Bill. However, the entire senate, plus the House, and the Governor must sign it before it becomes law.

Efforts by local communities and local churches in some parts of Texas have sought ways to provide some manner of instruction for these children. However, lack of resources has made this an extremely difficult task.

7. What Can You Do To Support The
Basic Right Of An Education For
Undocumented Immigrant Children?

Whether the right is labeled as a constitutional right or a human right, it is clear that all children are entitled to a basic education. The efforts to exclude undocumented immigrant children represent anti-immigrant, anti-Mexican, anti-children attitudes that have long historical roots in this country.

The public can help by being more sensitive to the plight of undocumented immigrants. The public can help by supporting the legislation sponsored by Senator Mauzy. It is the least that can be done in this year which has been proclaimed by the United Nations as "The International Year Of The Child."

WILSON RILES
Superintendent of Public Instruction
and Director of Education



STATE OF CALIFORNIA
DEPARTMENT OF EDUCATION
STATE EDUCATION BUILDING, 721 CAPITOL MALL, SACRAMENTO 95814

May 10, 1978

TO: DISTRICT AND COUNTY SUPERINTENDENTS OF SCHOOLS
FROM: WILSON RILES
SUBJECT: ADMISSION TO SCHOOL OF UNDOCUMENTED ALIENS;
ACCEPTABLE DOCUMENTS FOR THE REGISTRATION OF PUPILS

There has been some concern in recent years in California and elsewhere over the education of children who may be in the United States illegally. Recently it has come to our attention that some school districts are excluding children from school if they or their parents cannot document the right to reside in this country.

The Education Code does not make a distinction between aliens and citizens or between legal aliens and illegal aliens. Section 48200 of the Education Code provides that "Each person between the ages of 6 and 16 years ... is subject to compulsory full-time education." No exception is made in the case of illegal aliens. Similarly, no such distinction is made in the provisions of the code relating to the computation of average daily attendance.

From the foregoing, it is clear that pupils of school age are entitled to enroll in school in the district in which they reside and, in fact, are obligated by law to do so. Pupils without immigration status may be certified to the county superintendent of schools so that the special tax may be levied for the support of those pupils under Sections 42900 through 42911 of the Education Code. It is, however, a violation of the Education Code to refuse admission to those pupils.

In addition, any requirement of a school or school district which allows for registration to occur only when a child's birth certificate is presented may have an adverse effect on some parents who would otherwise present their child or children

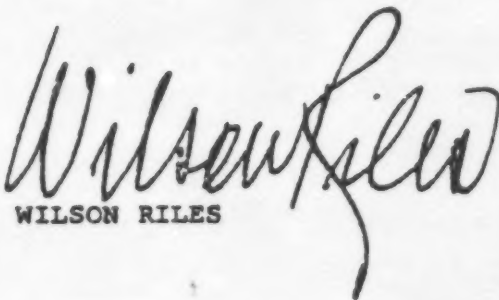
District and County
Superintendents of Schools
Page 2
May 10, 1978

for attendance. Section 48002 of the Education Code indicates that the following documents are acceptable for registration purposes: a birth certificate; a statement by the local registrar or a county recorder certifying the date of birth; an attested baptism certificate; a passport. Most importantly, where none of these are available, an affidavit of the child's date and place of birth by a parent or guardian of the child may be accepted.

The California Welfare and Institutions Code, in Section 10520, defines "affidavit" (for the purpose of establishing a record of birth) as "a written statement executed under oath by a person who at the time of birth was of sufficient age to have knowledge of the facts of birth and shall include the full name of the person whose birth is being registered, the names of his parents, the date and place of his birth and the basis of the affiant's knowledge of these facts." It is apparent that most parents would be legally qualified to be affiants.

Parents who personally bring their children for enrollment should receive an indication (either oral or written) of the opportunity to provide the required verification of birth and age information by presentation of any of the above-listed documents.

Sincerely


WILSON RILES

OAKLAND UNIFIED SCHOOL DISTRICT

THANDEUS DUMAS
Area 3 Superintendent

DATE: 9/28/78

TO: LOU JONES
Acting Area A Superintendent

ROUTE TO: 1. _____
2. _____
3. _____
4. _____

FROM: SANDRA WOLIVER
Assistant Legal Adviser

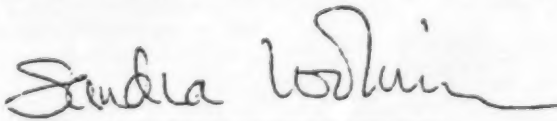
SUBJECT: Non-Immigrant
Non-Citizen students

It has recently come to our attention that it is a practice in certain schools, if not Districtwide, to inquire upon registration as to the immigration status of children who may be in the United States illegally. There is no legal authority to support this practice and indeed, recent legislation declares "that identification of pupils within the school system because they are non-immigrants or non-citizens without immigration status is not only irrelevant but is socially harmful..." SB 1432, Ch. 890, § 1, app'd 9-19-78 (emphasis supplied.)

When a child registers for school, the parent is required to show proof of the child's age. For this purpose, the parent may present a birth certificate, a statement by the local registrar or county recorder certifying the date of birth, an attested baptism certificate, a passport, or an affidavit of the child's date or place of birth by parent or guardian. Education Code § 48002. Thus, there is no rationale for requiring proof of legal immigration status for purposes of age verification or for any other purpose.

It is the duty of the District to provide a free public education to all persons between the ages of 6 and 16, and each person between these ages is subject to compulsory education laws. Education Code § 48200. We are informed that many parents are discouraged from enrolling their children in Oakland Public Schools when asked for documentation of immigration status. This is a regrettable result and runs counter to the District's duty to educate children residing within the District.

Attached please find the most recent version of SB 1432, which is identical to Chapter 890, and a letter dated May 10, 1978 from Wilson Riles. We recommend that this memo or instructions which reflect the information contained herein be disseminated to all schools in the District, directed specifically to the attention of principals and the persons responsible for registering new students.



SANDRA WOLIVER

SW :cf

Attachments

cc: Dr. Love
Dr. Snyder
Mr. Schreter
Mrs. Schroder
Mr. Tryon

Senate Bill No. 1432

CHAPTER 890

An act to amend Sections 42907 and 42950 of, to repeal Chapter 12 (commencing with Section 42950) of Part 24 of, and to repeal and add Section 42951 of, the Education Code, relating to special education programs, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1978. Filed with Secretary of State September 19, 1978.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1432, Dunlap. Schools: nonimmigrant, noncitizen pupils.

Under current law, (1) school districts that provide education in kindergarten or grades 1 through 12 for nonimmigrant children or noncitizen children without immigration status during the 1976-77 school year may increase their revenue limits for conducting programs for such children and (2) the county of which a nonimmigrant or noncitizen pupil is a resident must at the close of each year pay to the district or county superintendent of schools educating such pupil the excess cost for providing special programs to such pupils.

This bill would repeal (1) above as of July 1, 1979, would repeal (2) above as of the effective date of the bill, and would make a related change as to the method of financing county offices of education contained in Chapter 332 of the Statutes of 1978.

This bill would take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. The Legislature hereby finds and declares: that educational programs should be designed and provided on the basis of individual pupil needs; that identification of pupils within the school system because they are nonimmigrants or noncitizens without immigration status is not only irrelevant but is socially harmful; and that current statutory authority to levy countywide taxes based on the numbers of such pupils is an unfair burden on local taxpayers.

It is the intent of the Legislature in enacting this act to eliminate identification of nonimmigrant, noncitizen pupils and to eliminate an unfair countywide tax.

SEC. 2. Section 42907 of the Education Code is amended to read: 42907. The district maintaining such school or classes pursuant to Section 42902 shall forward its claim on forms prescribed by the Superintendent of Public Instruction not later than the 15th day of July of each year to the county superintendent of schools of the county, or city and county, wherein the district is located. The county

superintendent shall determine if pupils for whom costs are claimed pursuant to subdivisions (b) and (c) of Section 42904 were actually enrolled in the special programs. The county superintendent shall certify and present the claim to the county superintendent of the county, or city and county, of the pupil's residence.

SEC. 2.5. Section 42950 of the Education Code is amended to read:

42950. Any school district that provided education in kindergarten or grades 1 to 12, inclusive, for nonimmigrant children or noncitizen children without immigration status during the 1976-77 school year may increase its revenue limits by an amount per average daily attendance not to exceed the reimbursement received under a countywide tax levied for the local share of the revenue limit and for the excess cost of providing special programs for such children pursuant to statutes that existed in this code during the 1976-77 school year.

SEC. 3. Section 42951 of the Education Code is repealed.

SEC. 4. Section 42951 is added to the Education Code, to read:

42951. This chapter shall remain in effect only until July 1, 1979, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1979, deletes or extends such date.

SEC. 5. For the purposes of paragraph (2) of subdivision (b) of Section 6 of Chapter 292 of the Statutes of 1978, as amended by Chapter 332 of the Statutes of 1978, the amount of revenues determined pursuant to Section 2501 of the Education Code shall exclude that portion of revenue in fiscal year 1977-78 levied pursuant to Section 42909 to pay claims prescribed by former Section 42900, as it read prior to July 1, 1978.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order to repeal at the earliest possible time provisions operative July 1, 1978, which provide for the identification of nonimmigrant, noncitizen pupils and for a related unfair countywide tax, it is essential that this act take immediate effect.

EDUCATION COMMITTEE
APRIL 25, 1979
EXCERPTED -- SENATE BILL 738

CHAIRMAN : The Chair lays out at this time
Senate Bill 738 by Mauzy.

Members, this is a bill that I've introduced to put
the law back to where it was up until 4 years ago, and the
(practical) effect of it will be to allow children of
illegal aliens to attend public schools in Texas.

As you know, Judge -- Judge Justice in the Eastern
District has ruled that present law which prohibits children
attending free public schools, children of illegal aliens
is unconstitutional, the tuitions charged there are for --
are not allowed. There's been a similar lawsuit filed in
the United States District Court in Dallas just in the last
couple of weeks.

My personal opinion is just one lawyer...that any court
that gets a crack at it is going to rule the same way, and
ah, I personally feel that -- made a serious mistake when
that Section was added to the Education Code, and I'd like
to see the Legislature undo its mistakes, rather than require
the courts to do it.

I recognize that this subject is controversial, but
I wanted to lay it out -- but first, I need to send up the
Committee Substitute and move its adoption. The Committee
Substitute makes no substantative changes but is there to
-- corrections of some clerical errors in the bill.

The Chair sends up Committee Substitute for Senate Bill
738 and moves its adoption. Is there objection?

The Chair hears none. (gavel) The Committee Substitute
is adopted.

Does anyone registered _____?

SNELSON : Could I ask a question -- Mr. Chairman?

CHAIRMAN : Surely.

SNELSON : Of course, -- in agreement with the
thrust of what you're trying to do, but how do we deal with
it in helping those school districts that are on the border
that have a little different type of problem in this area

2.

than maybe Dallas does, or some of the other areas perhaps would. And they need some help. It seems to me unless we provide -- are willing to provide some help for them, for those school districts in meeting their costs, that you are putting an undue burden on them. Have you got any thoughts on that?

CHAIRMAN : Of course --- of course, ah, if we go back to what the law always was until 4 years ago, they-- they get their ADA count on all children that are enrolled there. And they get the same amount of state aid for -- for those children as for children of citizens.

SNELSON : Well, ah, my -- in past years the testimony has been in those impacted districts, ah -- maybe it's not as much of a problem, but my recollection was that that was one that was voiced over this particular issue. Now, I don't know how they dealt with it before. You say they were -- they were asking for help then...though I'm sure this is not going to -- maybe compound it anymore than what it is.

CHAIRMAN : I--ah-- I say, they'll -- of course they'll be eligible for the same ADA headcount, as all other school districts, and personally if -- if there is a need over and above that that's being unmet, I personally would be willing to vote tomorrow for it.

SNELSON : I think -- I think there was sort of an interim study on that. I don't remember now the results. I think it was a House study.

Thank you.

TRUAN : It seems to me, if I may, Doctor, you are from the border -- ? Seems to me the federal government has a certain responsibility there as -- because of the federal laws that allow people to come across. They ought to be just like federal installations where the government pays so much for --

: They don't have _____ law for

3.

"wetbacks"...

SNELSON : No--(laughter)

TRUAN : Just for Vietnamese? Cuban.

(voices overlapping, inaudible)

SANTIESTEBAN : You know, what sort of gets me, Oscar, is how do they remain illegal if the children are known to be illegal? Seems to me they'd be caught right away.

SNELSON : If they what?

SANTIESTEBAN : You know what I said?

CHAIRMAN : Right.

: In other words, if you identify them --

SANTIESTEBAN : Yeah!

SNELSON : _____ school in El Paso, and other, what they do, they will -- they will have an address, they might go back and forth home, but they are registered as living in El Paso...oftentimes in these cities, with an address of somebody. It may be the same address for 10 people, but actually --

SANTIESTEBAN : That doesn't make them an illegal alien. That, you know --

SNELSON : Well --

SANTIESTEBAN : See, an illegal alien is one who is in this country illegally. And -- and if they're in this country legally, or assuming that the parents are in this country illegally, and we, the school district knows that that is the child of an illegal alien. I mean -- why can't the machine be put in motion to catch the illegal alien who is the father?

You know -- I -- I've heard of this all my life, you know, and of course I'm for the bill because children are children are children, and that's the -- but I just -- I just have never, really, put the _____ on how they remain--

CHAIRMAN : Well, let me -- let me tell you how

4.

they're trying to do it in Dallas. Any child with a Spanish surname who goes and registers in school, they are then required, the child is required to bring his parents to the school with proof of citizenship.

: Oh, my goodness --

CHAIRMAN : That's what's happening today in the Dallas Independent School District.

: That's in Dallas?

SANTIESTEBAN : That's terrible.

CHAIRMAN : And that's the reason a lawsuit has been filed, and -- and --

SANTIESTEBAN : Someone who is named Smith, or -- or Buchanan, doesn't have to do that.

CHAIRMAN : Yes.

Is there anyone present who desires to be heard for either for or against Senate Bill 738? If not, the bill will be held as pending business...with all the other ---
(END OF TESTIMONY ON SENATE BILL 738)

A BILL TO BE ENTITLED

AN ACT

amending section 21.031 of the Texas Education Code, relating to admission and tuition charges for children who are not citizens of the United States or legally admitted aliens;

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. Subsections (a), (b), and (c), Section 21.031 of the Texas Education Code are amended to read as follows:

"Section 21.031 ADMISSION

(a) All children [~~who are citizens of the United States or legally admitted aliens and~~] who are over the age of five years and under the age of 21 years on the first day of September of any scholastic year shall be entitled to the benefits of the Available School Fund for that year.

(b) Every child in this state [~~who is a citizen of the United States or a legally admitted alien and~~] who is over the age of five years and not over the age of 21 years on the first day of September of the year in which admission is sought shall be permitted to attend the public free schools of the district in which he resides or in which his parent, guardian, or the person having lawful control of him resides at the time he applies for admission.

(c) The board of trustees of any public free school district of this state shall admit into the public free schools of the district free of tuition all persons [~~who are either citizens of the United States or legally admitted aliens and~~] who are over five and not over 21 years of age at the beginning of the scholastic year if such person or his parent, guardian or person having lawful control resides within the school district.

(d) In order for a person under the age of 18 years to establish a residence for the purpose of attending the public free schools separate and apart from his parent, guardian, or other

person having lawful control of him under an order of a court, it must be established that his presence in the school district is not for the primary purpose of attending the public free schools. the board of trustees shall be responsible for determining whether an applicant for admission is a resident of the school district for purposes of attending the public schools."

Section 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

BILL ANALYSIS

PURPOSE: To amend the Texas Education Code to provide tuition free admission to the public free schools of Texas for all persons between 5 and 21 years of age.

SUMMARY:

Section 1. Amends Subsections (a), (b), and (c), Section 21.031 of the Texas Education Code, by the deletion from these subsections of all references to national origin.

Section 2. Emergency clause.

RULEMAKING AUTHORITY: No rulemaking authority is granted by this legislation to any agency, person, institution or entity of the state.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

March 22, 1979

Honorable Oscar H. Mauzy, Chairman
Committee on Education
Senate Chamber
Austin, Texas

In Re: Senate Bill No. 738
By: Mauzy

Sir:

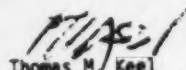
In response to your request pursuant to Senate Rule 94, Subsection (g), this office finds the fiscal implications of Senate Bill No. 738 (relating to tuition charges for children who are not citizens of the United States or legally admitted aliens) to be as follows:

The bill would make no appropriation but would constitute prior legislative authorization for an appropriative request.

The probable cost of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

<u>Fiscal Year</u>	<u>Out of the General Revenue Fund</u>	<u>Local Cost</u>
1980	\$ 16,035,406	\$ 81,596,245
1981	32,361,163	96,352,377
1982	48,989,311	112,981,008
1983	65,936,798	131,765,314
1984	83,200,179	153,034,013

Similar annual costs would continue as long as the provisions of the bill are in effect.


Thomas M. Keel
Director

Source: Texas Education Agency; LBB Staff

RECEIVED

MAR 22 1979

Routed to _____
Filed _____

1 By: Mauzy S.B. No. 738
2 (In the Senate - Filed March 1, 1979; March 1, 1979, read
3 first time and referred to Committee on Education; April 26, 1979,
4 reported adversely, with favorable Committee Substitute; April 26,
5 1979, sent to printer.)

6 COMMITTEE SUBSTITUTE FOR S.B. NO. 738

By: Mauzy

7 A BILL TO BE ENTITLED

8 AN ACT

9 amending Section 21.031 of the Texas Education Code, as amended,
10 relating to admission to schools and tuition charges for children
11 who are not citizens of the United States or legally admitted
12 aliens.

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

14 SECTION 1. Section 21.031 of the Texas Education Code, as
15 amended, is amended to read as follows:

16 "Section 21.031. ADMISSION

17 "(a) All children [~~who are citizens of the United States or~~
18 ~~legally admitted aliens and~~] who are over the age of five years and
19 under the age of 21 years on the first day of September of any
20 scholastic year shall be entitled to the benefits of the Available
21 School Fund for that year.

22 "(b) Every child in this state [~~who is a citizen of the~~
23 ~~United States or a legally admitted alien and~~] who is over the age
24 of five years and not over the age of 21 years on the first day of
25 September of the year in which admission is sought shall be
26 permitted to attend the public free schools of the district in
27 which he resides or in which his parent, guardian, or the person
28 having lawful control of him resides at the time he applies for
29 admission.

30 "(c) The board of trustees of any public free school
31 district of this state shall admit into the public free schools of
32 the district free of tuition all persons [~~who are either citizens~~
33 ~~of the United States or legally admitted aliens and~~] who are over
34 five and not over 21 years of age at the beginning of the
35 scholastic year if such person or his parent, guardian or person
36 having lawful control resides within the school district.

37 "(d) In order for a person under the age of 18 years to
38 establish a residence for the purpose of attending the public free
39 schools separate and apart from his parent, guardian, or other
40 person having lawful control of him under an order of a court, it
41 must be established that his presence in the school district is not
42 for the primary purpose of attending the public free schools. The
43 board of trustees shall be responsible for determining whether an
44 applicant for admission is a resident of the school district for
45 purposes of attending the public schools."

46 SECTION 2. The importance of this legislation and the
47 crowded condition of the calendars in both houses create an
48 emergency and an imperative public necessity that the
49 constitutional rule requiring bills to be read on three several
50 days in each house be suspended, and this rule is hereby suspended,
51 and that this Act take effect and be in force from and after its
52 passage, and it is so enacted.

* * * * *

Austin, Texas
April 26, 1979

Hon. William P. Hobby
President of the Senate

Sir:

We, your Committee on Education, to which was referred S.B. No.
738, have had the same under consideration, and I am instructed to
report it back to the Senate with the recommendation that it do not
pass, but that the Committee Substitute adopted in lieu thereof do
pass and be printed.

Mauzy, Chairman

FILED FEB 1 1979

By Long

H. No. 799

A BILL TO BE ENTITLED

AN ACT

relating to the allocation of funds to school districts with large enrollments of alien students, and providing an appropriation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. ALLOTMENTS TO SCHOOL DISTRICTS WITH LARGE ENROLLMENTS OF ALIEN STUDENTS. (a) The State Board of Education shall allocate funds to eligible school districts to construct buildings, repair or renovate existing buildings, and acquire necessary furnishings and equipment. All proposed expenditures of the funds must be approved by the board before the funds are obligated.

(b) A school district is eligible for funds authorized in this section if:

(1) at least five percent of the students enrolled in the district's schools on October 1, 1979, are children whose parents have sole citizenship in a country other than the United States; and

(2) the School Tax Assessment Practices Board determines that the district's effective tax rate for the 1977 tax year was higher than the average effective tax rate for all school districts for that year.

(c) In calculating the full value of taxable property in determining effective tax rates under Subsection (b)(2) of this section, the School Tax Assessment Practices Board may not include

1 the value of intangible property or personal property or the amount
2 of residence homestead exemptions required by law and shall value
3 open-space land devoted to farm, ranch, or timber production
4 purposes on the basis of its productive capacity.

5 (d) The amount of funds allocated to an eligible school
6 district shall be determined by multiplying the number of students
7 enrolled in the district's schools on October 1, 1979, whose
8 parents have sole citizenship in a country other than the United
9 States by \$1,000.

10 SECTION 2. APPROPRIATION. There is appropriated from the
11 General Revenue Fund to the State Board of Education for the fiscal
12 year ending August 31, 1980, the sum of \$10 million to implement
13 the provisions of this Act. If the amount appropriated is
14 insufficient to fully fund the allocations to school districts
15 authorized in this Act, the State Board of Education shall prorate
16 the amount allocated to each school district on the basis of the
17 number of students in the district whose parents have sole
18 citizenship in a country other than the United States.

19 SECTION 3. EMERGENCY. The importance of this legislation
20 and the crowded condition of the calendars in both houses create an
21 emergency and an imperative public necessity that the
22 constitutional rule requiring bills to be read on three several
23 days in each house be suspended, and this rule is hereby suspended,
24 and that this Act take effect and be in force from and after its
25 passage, and it is so enacted.

Major changes in the leadership in both Houses will also have their effect. In the Senate, following the retirement of Sen. James O. Eastland (D-Miss.), the Chairmanship of the powerful Committee on the Judiciary passes to Sen. Edward M. Kennedy (D-Mass.), who for years has been one of the most knowledgeable, interested and effective members of that body in the field of immigration and refugee affairs. In the House, Rep. Peter W. Rodino, Jr. (D-N.J.) continues as Chairman of its Judiciary Committee. With the defeat of Rep. Joshua Eilberg (D-Pa.), Chairmanship of its Subcommittee on Immigration, Citizenship and International Law, which is charged with primary responsibility for immigration legislation, passes to Rep. Elizabeth Holtzman (D-N.Y.). Rep. Rodino was for many years Chairman of the Subcommittee and he and Rep. Holtzman have long been actively interested in immigration legislation.

House Judiciary Committee

Rep. Rodino, who continues as Chairman of the full Judiciary Committee, has previously been Chairman of Subcommittee No. 1 (as it was then named), which dealt with immigration and nationality legislation. Among the 31 members of the Committee on the Judiciary are 5 new Democrats and 2 new Republicans. Missing from the Democrats who formerly were on the Committee are Joshua Eilberg (Pa.), who failed of reelection; Walter Flowers (Ala.), who ran for the Senate and lost; James R. Mann (S.C.) and Barbara Jordan (Tex.), who retired; and Jim Santini (Nev.), Allen Ertel (Pa.), Billy Lee Evans (Ga.) and Anthony C. Beilenson (Cal.), who accepted assignments on other committees. Missing from the Republicans are Charles E. Wiggins (Cal.), who retired, and William S. Cohen (Me.), who was elected to the Senate.

The membership of the House Judiciary Committee and its Subcommittee on Immigration, Citizenship and International Law for the 96th Congress is as follows, the asterisk (*) denoting new members:

Democrats

Peter W. Rodino, Jr. (N.J.) - Chairman
Jack Brooks (Tex.)
Robert W. Kastenmeier (Wis.)
Don Edwards (Cal.)
John Conyers, Jr. (Mich.)
John F. Seiberling (Ohio)
George E. Danielson (Cal.)
Robert F. Drinan (Mass.)
Elizabeth Holtzman (N.Y.)
Romano L. Mazzoli (Ky.)

William J. Hughes (N.J.)
Sam B. Hall, Jr. (Tex.)
Lamar Gudger (N.C.)
Harold L. Volkmer (Mo.)
Herbert E. Harris II (Va.)
*Michael Lynn Synar (Okla.)
*Robert T. Matsui (Cal.)
*Abner J. Mikva (Ill.)
*Michael D. Barnes (Md.)
*Richard C. Shelby (Ala.)

Republicans

Robert McClory (Ill.)
Tom Railsback (Ill.)
Hamilton Fish, Jr. (N.Y.)
M. Caldwell Butler (Va.)
Carlos J. Moorhead (Cal.)
John M. Ashbrook (Ohio)

Henry J. Hyde (Ill.)
Thomas N. Kindness (Ohio)
Harold S. Sawyer (Mich.)
*Dan Lungren (Cal.)
*F. James Sessenbrenner, Jr. (Wis.)

Subcommittee on Immigration, Citizenship and International Law

Democrats

Elizabeth Holtzman (N.Y.) - Chairwoman
Sam B. Hall, Jr. (Tex.)
Herbert E. Harris II (Va.)
*George E. Danielson (Cal.)
*Michael Barnes (Md.)
*Richard Shelby (Ala.)

Republicans

Hamilton Fish, Jr. (N.Y.)
*M. Caldwell Butler (Va.)
*Dan Lungren (Cal.)

Senate Judiciary Committee

The Senate Judiciary Committee has jurisdiction, among other things, over immigration and naturalization as well as refugees and escapees. The new Chairman, Sen. Edward M. Kennedy (D-Mass.), has for years taken a leading role in promoting advances in the laws relating to those subjects, and greater activity can be expected than was the case under the former Chairman, Sen. James O. Eastland (D-Miss.), whose interests lay elsewhere. Under a mandate to reduce the number of its subcommittees, the Committee will have no subcommittee on immigration, nationality and refugee matters, and these subjects will be handled by the full Committee. Missing from the Democrats on the full Committee, in addition to Sen. Eastland, are the late Senators John L. McClellan and James B. Allen; and Sen. James Abourezk, who retired. Missing among the Republicans are Sen. William Scott, who retired, and Sen. Malcolm Wallop, who accepted another committee assignment.

The members of the full Judiciary Committee are as follows, the asterisk (*) denoting new members:

Democrats

Edward M. Kennedy (Mass.) - Chairman
Birch Bayh (Ind.)
Robert C. Byrd (W.Va.)
Joseph R. Biden, Jr. (Del.)
John C. Culver (Iowa)

Howard M. Metzenbaum (Ohio)
Dennis DeConcini (Ariz.)
*Patrick J. Leahy (Vt.)
*Max Baucus (Mont.)
*Howell Heflin (Ala.)

Republicans

Strom Thurmond (S.C.)
Charles McC. Mathias, Jr. (Md.)
Paul Laxalt (Nev.)
Orrin G. Hatch (Utah)

*Robert Dole (Kans.)
*Thad Cochran (Miss.)
*Alan K. Simpson (Wyo.)

Select Commission on Immigration and Refugee Policy

§4 of PL 95-412 provides for the establishment of a 16-member Select Commission on Immigration and Refugee Policy, to study and evaluate existing laws, policies and procedures and to make appropriate recommendations. Its final report is due September 30, 1980. Four members (including the Chairman) are to be appointed by the President. Four are cabinet members (Secretary of State, Attorney General, Secretary of Labor, and Secretary of HEW). The other eight come from the Congress, four to be appointed by the Speaker of the House from the House Judiciary Committee and four to be appointed by the President of the Senate from the Senate Judiciary

GUADALUPE AZTLAN ELEMENTARY SCHOOL
(Description of Program)

September 1978

Guadalupe Aztlan Elementary School, opening in October 1978, is a school for undocumented Mexican children. It is the result of the efforts and support of a four parish coalition in Houston: Guadalupe, Holy Name, St. Joseph, and St. Patrick. Also supporting the school are the Diocese of Galveston-Houston, several religious orders, and community resource people. It will be staffed by four recent graduates of the University of Notre Dame who will be full time administrators and teachers.

We believe it is the right of every child to be given an education. Guadalupe Aztlan Elementary will try to meet the needs of those undocumented children affected by the recent Texas Supreme Court ruling making it difficult for undocumented Mexican children to attend public schools. The Church, having no boundaries, has responded to this need by its support of Guadalupe Aztlan. There are many committed and competent people dedicating their time and energies to Guadalupe Aztlan. It is the hope of all involved to enable the undocumented children of this area to learn and grow.

Guadalupe Aztlan Elementary will be a full time elementary school for students age six and older, and has the resources to accommodate about one hundred students. The focus of the Guadalupe Aztlan curriculum will be on functional skills, language arts (in both Spanish and English), math and other needed and beneficial abilities. The curriculum will be implemented through the use of both Spanish and English, and students will be encouraged to develop their abilities to use both.

Eligibility: The school is open to those undocumented Mexican children living within the four parish area of Guadalupe, Holy Name, St. Joseph, and St. Patrick. Other children from outside these participating parishes will be admitted if space allows on a first come first served basis.

Tuition: There will be a tuition charge of three to five dollars per week per student. Families with more than one child will pay less per student.

Calendar/Daily Schedule: The school will open in early Oct. 1978; it will be in session Monday through Friday from approx. 8:30 a.m. to 2:00 p.m.

Transportation: It is hoped that transportation can be made available; parents will be asked to assist in this effort. If no buses and drivers are found, we may be forced to accept only children who can get to school on their own or by car pooling.

Parent's role: Parents are the most important link between the student and teacher. We ask for your support in the establishment, maintenance, and functioning of the school, and very importantly, to make a concerted effort to have your children attend school daily. Your input is most necessary.

Needs: We feel that education is everyone's responsibility. We need support from parents, community groups, educational resource persons, interested volunteers, everyone. Please help if you can.

Information/Registration/Questions:

Tom Basile
Ricky Flores
Jay Brandenberger
Joe Forman
9623 Angie Lane
Houston, Texas 77038

Phone: 931-4105

Guadalupe Aztlan Elementary
3717 Robertson
Houston, Texas 77009

SCHOOL DISTRICTS REPRESENTED

Austin
Brownsville
Dallas
Del Rio
Donna
Eagle Pass
Edgewood
El Paso
Hidalgo
La Joya
Los Fresnos
McAllen
Mission
Pharr-San Juan-Alamo
Rio Grande
San Antonio
Zapata

Court cases related to the issue of undocumented immigrant children attending public schools include:

- (1) Refugio Silva v. Edward Levi (Chicago, Illinois) - this case was the source of the "Silva letter" ruling;
- (2) Armando Martinez v. Austin ISD (Austin, Texas) - this case formed the basis for Commissioner Brockett's ruling;
- (3) Hernandez v. Houston ISD (Houston, Texas) the ruling in this case was that illegal immigrant children were not entitled to a free public education; and
- (4) J. and R. Doe v. James Plyler (Tyler, Texas) - the ruling in this case on September 11, 1977, by Federal Judge William Wayne Justice was that Section 21.031 of the Texas Education Code denies illegal immigrant children equal protection of the laws.

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A list of IDRA publications is available upon request.



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